

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

ADMINISTRATIVE ORDER

IN THE MATTER OF

~~Fuel leak at 1024 Old Hwy 9, Silverthorne, CO~~
~~Columbine Hills Concrete Inc Spill~~
Split Creek Oil Spill

Docket Number:

CWA-08-2005-0007

2004 DEC -9 AM 11:20

FILED
EPA REGION VIII
HEARING CLERK

Proceedings under Section 311 (c) of the Clean Water Act (CWA), 33 U.S.C. § 1321 (c), as amended by the Oil Pollution Act of 1990 (OPA), 33 U.S.C. § 2701 et seq.

I. DEFINITIONS

"Oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil (Section 311(a)(1) of the CWA, 33U.S.C. §1321(a)(1)).

"Hazardous substance" means any substance designated pursuant to subsection (b)(2) of this section (Section 311(a)(14) of the CWA, 33 U.S.C. § 1321(a)(14)).

"Navigable water of the United States" means the waters of the United States, including the territorial seas (Section 502(7) of the CWA, 33 U.S.C. § 1362(7)).

"Facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States other than submerged land (Section 311(a)(10) of the CWA, 33U.S.C. §1321(a)(10)).

"Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 402 of CWA, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of CWA, and subject to a condition in such permit, and (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of CWA which are caused by events occurring within the scope of relevant operating or treatment systems (Section 311(a)(2) of the CWA, 33 U.S.C. § 1321(a)(2)).

II. FINDINGS OF FACT AND VIOLATIONS

A. This Order is being issued under §311(c) of the Clean Water Act, 33 U.S.C. §1321 for a discharge or a substantial threat of discharge of oil and/or a hazardous substance into waters of the United States.

B. On or about 11/10/04 (date of discharge), a discharge or a substantial threat of a

discharge of unknown gallons/barrels of oil and/or other petroleum prod., which is/are hazardous substance(s) reached or may reach Blue River (body of water) which is a navigable water of the United States. This discharge or substantial threat of a discharge from the parking lot of Columbine Hite Concrete, Inc. at 1024 Adams Ave., Silverthorne CO 80498 (Name and address of facility) constitutes a substantial threat to the public health or welfare.

Split Creek Associates, by
C. Respondent(s) Mr. Bob Wyley, Manager
is/are the owner(s)/operator(s) of the facility.

III. WORK TO BE PERFORMED (Initial all that apply)

A. RESPONDENT IS HEREBY ORDERED to complete the tasks described below within the dates specified and in accordance with the National Contingency Plan, 40 CFR Part 300, and any appropriate area contingency plan, and any applicable §311(j) facility response plan.

B. IMMEDIATE STABILIZATION AND MITIGATION ACTIONS (see attached sheet for further requirements)

- ① To Boom the creek that flows to the Blue River and To build the eastern boom along the Adams Ave. BY 11/10/04
- ② To Reduce the flow rate of the creek that feeds the water & run-off into the Blue River (To divert the water of the Beaver Dam North of parking lot) BY 11/11/04
- ③ To build a collection point to capture any contaminated run-off from the parking lot BY 11/13/04
- BY 11
- ④ To place more boom and absorbent material along the creek to collect residual petroleum product(s) BY 11/11/04

C. REMOVAL ACTION

Within 14 days from the date this Order is signed by EPA, Respondent(s) shall develop and submit to EPA for approval, a Work Plan and schedule for completing the tasks described below. Respondent(s) shall begin work within 5 days of EPA approval of the Work Plan. The Work Plan shall include the following tasks:

- The sampling Plan for surface/subsurface soil and groundwater samples
- Proposed removal activities for contaminated soil and groundwater
- Health & Safety Plan

Within 7 days from the date this Order is signed by EPA, Respondent(s) shall develop and submit to EPA for approval, a Sampling Plan and schedule for sampling. Respondent(s) shall implement the Sampling Plan within 2 days of EPA approval. The

Sampling Plan must satisfy the following requirements:

- Sample locations for soil, surface water & groundwater and sub-surface soil
- Analytical Analysis
- QA/QC Level II

D. REPORTING REQUIREMENTS

____ Respondent(s) shall prepare and submit to the On-Scene Coordinator the following reports:

- ____ Weekly Progress Reports due on 11/18/04
- ____ Monthly Progress Reports due on N/A
- ____ Final Completion Report due 15 days after the completion of the Removal Action

E. OTHER REQUIREMENTS

IV. RESERVATION OF RIGHTS AND PENALTIES

- A. This Order does not preclude EPA from taking any actions authorized by CWA, the National Contingency Plan, or any other law. EPA reserves the right to direct all activities and to comment on and direct changes to deliverables, off-site shipping and disposal, and all other matters.
- B. Respondent shall notify EPA of any response actions it takes as to this discharge that are in addition to those described in this Order.
- C. Violation of any term of this ORDER may subject Respondents to an administrative civil penalty of up to \$27,500 per day of violation or an amount up to three times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure. (Section 311(b)(7)(B) of the Clean Water Act, 33 U.S.C. § 1321(b)(7)(B) as amended by the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 et seq.)

V. EFFECTIVE DATE

The effective date of this ORDER shall be the date of the receipt of this Order by the Respondents.

____ Don Roper (308-312-6509) 11/11/04
On-Scene Coordinator Date

Received by Split Creek Associates 11/11/04
by K. H. H. Manager Date
Representing Respondent

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **ADMINISTRATIVE ORDER** in the matter of **SPLIT CREEK OIL SPILL, DOCKET NO.: CWA-08-2005-0007** was filed with the Regional Hearing Clerk on December 9, 2004.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Mike Risner, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on December 8, 2004, to:

Mr. Bob Wyler, Manager
1024 Old Hwy 9
Silverthorne, CO 80498

December 9, 2004



Tina Artemis
Regional Hearing Clerk

